



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 23-202	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Variance – rear setback	Planning Commission Date	December 12, 2023	
Deadline for Action	Application Date	November 7, 2023	60 Days	January 6, 2024
	Date Extension Letter Mailed	November 20, 2023	120 Days	March 6, 2024
Location of Subject	319 N 28 th Avenue W			
Applicant	Family Rise Together	Contact	ChaQuana McEntyre	
Agent	Just Housing	Contact	Rachel Wagner	
Legal Description	See Attached	Sign Notice Date	November 28, 2023	
Site Visit Date	December 4, 2023	Number of Letters Sent	84	

Proposal

A variance to the rear yard setback for construction of a single family home, as well as a deck and accessible ramp, which will be located 10’ from the rear property line instead of the required 25’.

Staff Recommendation

Staff recommends approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Vacant	Neighborhood Mixed Use
North	MU-N	Residential	Neighborhood Mixed Use
South	MU-N	Commercial	Neighborhood Mixed Use
East	MU-N	Residential	Neighborhood Mixed Use
West	MU-N	Vacant	Neighborhood Mixed Use

Summary of Code Requirements

Sec. 50-15.2 – Rear yard setback in MU-N is 25 feet.

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Future Land Use

Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods ... May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History

Previous condemned home on the site was torn down in 2022.

Review and Discussion Items:

Staff finds that:

- 1) The applicant is seeking a variance to rear yard setback to build a two-story single family home with deck and accessible ramp.
- 2) *Variance Criteria #1 (exceptional narrowness, shallowness, or shape):* This parcel is irregularly shaped due to its location abutting an adjacent plat; the entire block is also located at the intersection where a NE-SW oriented street grid meets an E-W street grid. Because of this, the southeastern lot line is only 70' long, whereas the northwestern lot line is nearly 105' long.
- 3) *Variance Criteria #2 (circumstances unique to the property, not created by the property owner):* The angled rear lot line is not typical for properties in the MU-N zone district, and existed even before the previous house on the property was built.
- 4) *Variance Criteria #3 (circumstances are peculiar to this property and do not apply generally to other land or buildings):* The setbacks in the MU-N zone district are designed for deeper lots; the 70' southeastern lot line in this instance means that almost 2/3 of the lot depth is taken up by setbacks, leaving just over 1/3 of the lot for construction of a house.
- 5) *Variance Criteria #4 (proposes to use in a reasonable manner not permitted by code):* Applicant proposes a single-family house with a footprint of 1,060 sq ft and a reasonably sized rear deck and a ramp leading to an accessible entrance. This is permitted in the MU-N zone district.
- 6) *Variance Criteria #5 (not impair light/air, increase congestion, or impair public safety or property values).* A previous single-family home existed on this lot. This will not impair light or air, nor increase congestion or impair public safety.
- 7) *Variance Criteria #6 (will not impair intent of this Chapter or alter the essential character of the locality).* Proposed house will be located in a neighborhood with a mix of uses, including single-family homes. Proposed home will be a similar size, placement, and character as the previous house. This will not alter the essential character of the neighborhood.
- 8) *Variance Criteria #7 (signs).* Does not apply to this application.
- 9) *Variance Criteria #8 (additional standards).* The proposal includes a fence and buffering between this property and the adjacent residential property.
- 10) *Variance Criteria #9 (economic considerations).* Does not apply, as the applicant is not using a demonstration of economic difficulty as part of the application.
- 11) One neighbor asked a question unrelated to the variance. No other public, agency, or other City comments were received.
- 12) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Staff recommends approval of a rear yard setback variance, allowing placement of two corners of a home as well as a deck and ramp that will be 10' from the rear property line instead of 25', with the following conditions:

1. Project shall be built and maintained according to "Site Concept" dated 11/6/23 submitted with this application.
2. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 23-202
Variance
319 N 28th Ave W

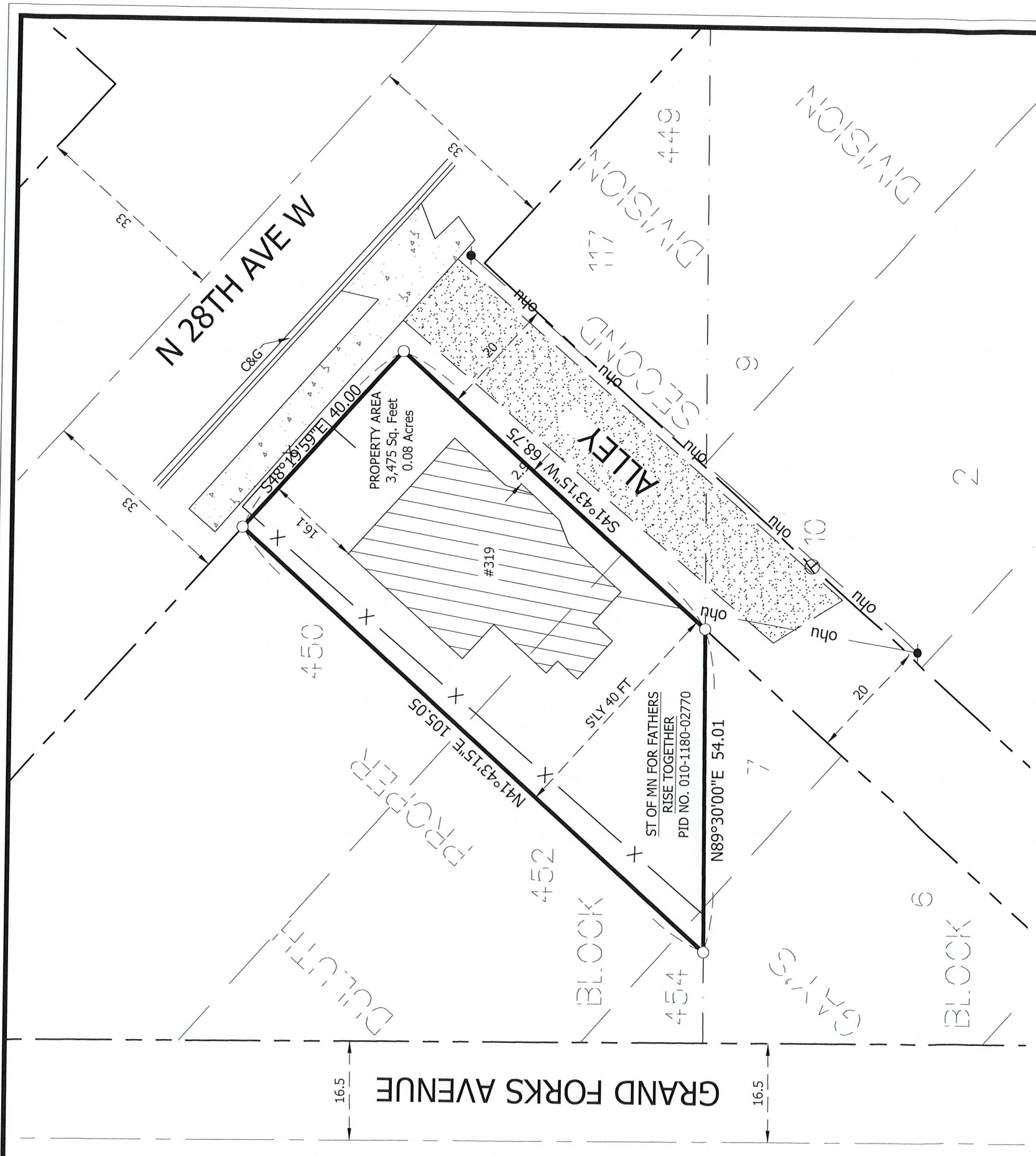


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Aerial photography flown 2019

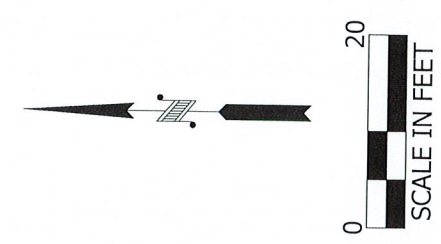
Prepared by: City of Duluth Planning & Economic Development, November 21, 2023 Source: City of Duluth





LEGAL DESCRIPTION PER DOCUMENT NO. 1402253

South 40 feet of Lot 450 and 452 AND that part of Lot 454 lying within 40 feet of the North line of the alley, Block 117, DULUTH PROPER SECOND DIVISION



LEGEND

	CONCRETE SURFACE		C&G-CONCRETE CURB & GUTTER
	GRAVEL SURFACE		FENCE LINE
	EXISTING BUILDINGS		OVERHEAD UTILITIES
			SECTION SUBDIVISION LINE
			CENTER LINE
			RIGHT OF WAY LINE
			BOUNDARY LINE AS SURVEYED
			EXISTING PLAT LINE
			FOUND T-STAKE MONUMENT
			SET CAPPED REBAR RLS. NO. 49505
			UTILITY POLE

SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
3. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
4. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.

CERTIFICATE OF SURVEY

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

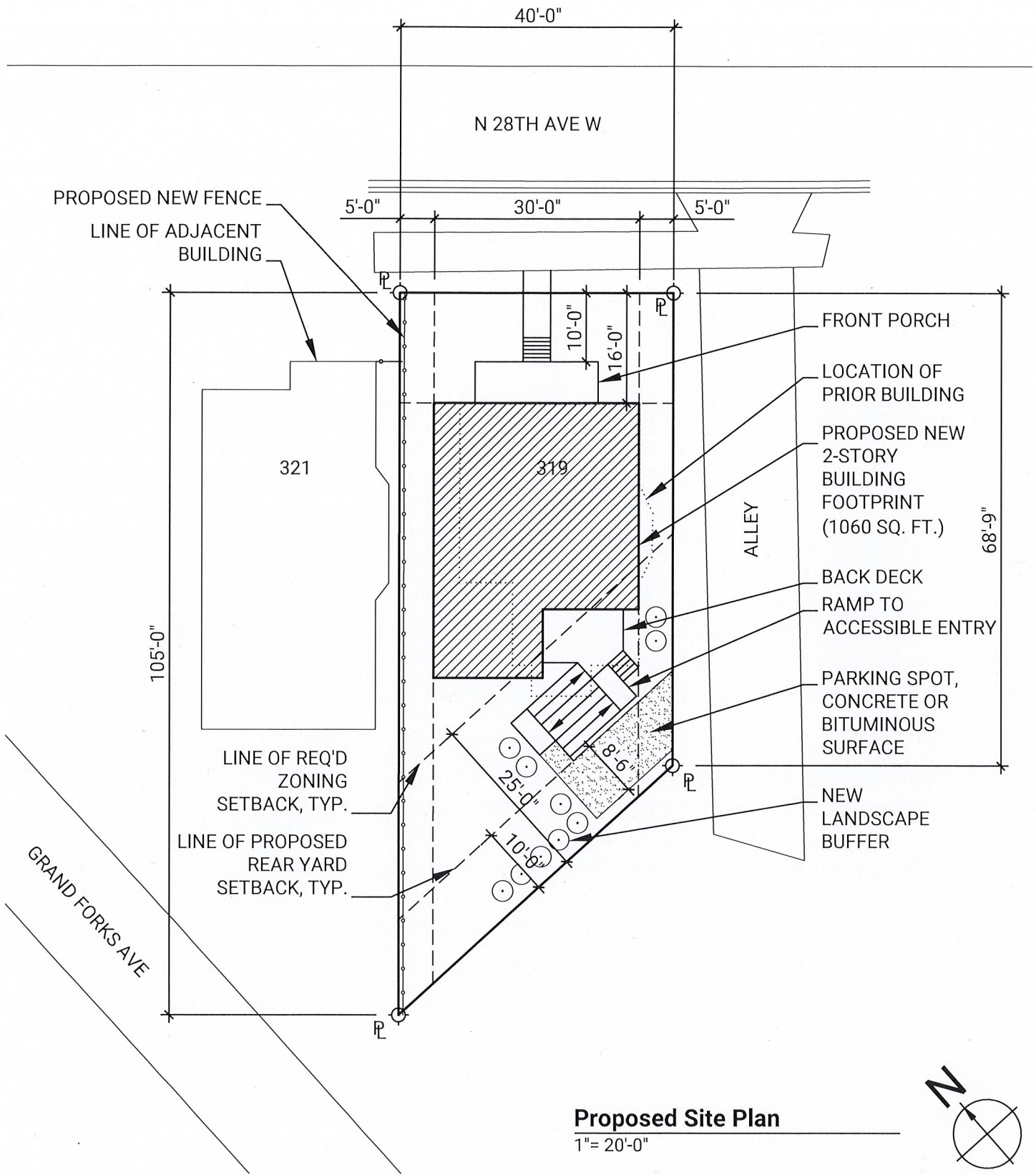
David R. Evanson
 David R. Evanson
 MN License #49505
 DATE: 09-26-2022

CLIENT: FAMILY RISE TOGETHER
 ADDRESS: 319 N 28TH AVENUE WEST
 DULUTH, MN 55806
 DATE: 09-26-2022

ALTA
 LAND SURVEY COMPANY
 PHONE: 218-727-5211
 LICENSED IN MN & WI
 WWW.ALTLANDSURVEYDULUTH.COM

REVISIONS:

JOB NO: 22-268 SHEET 1 OF 1



Just Housing SBC
 2201 W 1st St
 Duluth, MN 55806
 218-722-4323

just-housing.org

Site Concept

Project: 23011 Family Rise Together
 Willa Mae's House
 319 N 28th Ave W
 Duluth, MN 55806

Date: 11/6/23



JUST
HOUSING

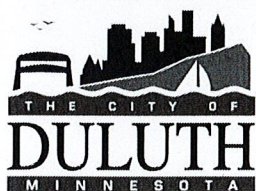
Willa Mae's House

A Supportive Housing Development Project Of Family Rise Together



Project Location: 319 N 28th Ave. West
Duluth, MN 55806

Project Concept Documentation Packet 1 August 2023



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Variance Application Supplemental Form Family Rise Together: 319 N 28th Ave. W

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and will be shared with the Planning Commission during their review. You may fill out this form, or attach your information in a separate letter. This information will be shared with the Planning Commission in order to help them determine the appropriateness of the variance application and request.

List the UDC Section you are seeking relief from (example: "50-14.5 – front yard setback in an R-1"):

50-15.2 Mixed Use-Neighborhood (MU-N) – minimum depth of rear yard setback. We are requesting reduction of the rear yard setback from 25 feet to 10 feet.

1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:

This parcel is not rectangular in shape. The back of the parcel is triangular in shape. The front of the parcel, along 28th Ave E, is 40' wide. The side abutting the alley is 68.75' long and the side abutting the neighbor's parcel is 105' long. The unusual shape of this property results in a practical difficulty for adherence to the rear yard setback.

2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:

The parcel was purchased with a condemned 2-story home on the lot (which has since been demolished). The original home, location shown in the certified survey, did not meet the current setbacks, but fit well within the neighborhood. It was of a similar size and placement to the house which exists on the adjacent property. The owner wishes to build a new 2-story home of a similar size and character to the original, and will conform to the current requirements for front and side yard setbacks. However, the current required rear yard setback presents the practical difficulty.

3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:

This property abuts a property to the rear with a similar wedge-shaped configuration. These two properties abut the north side of an alley that connects N 28th Ave W with Grand forks Ave. This property is part of a peculiar triangular-shaped tract of land area bordered by N 28th Ave W, Grand Forks Ave, and the alley. This triangular-shaped tract of land is divided into 5 parcels, all of which have non-rectangular configurations.

Aerial photo of the land in question is included with this supplemental information.

4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:

The owner wishes to build a new single-family 2-story home of a similar size and character to the original, and will conform to the current requirements for front and side yard setbacks. The footprint of the proposed house, with the requested variance, is 1,060 square feet, which is an average sized, reasonable home. The required off-street parking space is off the alley at the back of the house, which essentially necessitates a rear entry. Without the variance, the allowable building area is too small to allow for the development of a desirable single-family home, with access from both the front and the rear.

5. Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:

The proposed site plan places the new house on the site in a manner consistent with the other single-family homes on the block. The size and configuration of the house is of a similar proportion to the adjacent home, and will not impact the supply of air or light to the adjacent home any more than did the original home on this site.

This newly constructed home will be durable and all-electric operation. With no combustion appliances in the house, the house will be safer than many in terms of fire resistance and potential fumes or other pollutants.

6 Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:

The priorities of this project are in alignment with the intent zoning ordinance and the purpose of the MU-N zoning. The site will be retained as a single-family residence. The project design takes into account the character of the neighborhood, as well as the ecology and sustainability of our community.

The home will be designed for net zero energy performance, and the building design will be in keeping with the character of the neighborhood. New landscaping and a new fence along the shared property line will installed as a buffer, and in character with the neighborhood. The site development, building construction, and landscaping will be undertaken with an approach intended to "leave it better than you found it."

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)? Yes No

Discuss what subsections are applicable and how this request meets those: n/a